

AMENDED IN ASSEMBLY APRIL 11, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 880**

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**Introduced by Assembly Member Gomez**

February 22, 2013

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An act to ~~amend Section 19548.5 of the Revenue and Taxation Code~~ *add Section 230.9 to the Labor Code*, to amend Sections 1088.5 and 1095 of, *and to add Section 976.7 to*, the Unemployment Insurance Code, and to amend Section 11025 of, *and to add Article 7 (commencing with Section 14199) to Chapter 7 of Part 3 of Division 9 of*, the Welfare and Institutions Code, relating to ~~data collection~~ *health care coverage*, making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

AB 880, as amended, Gomez. ~~Data collection.~~ *Medi-Cal program costs: large employer responsibility.*

*Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, to afford to qualifying individuals health care and related remedial or preventive services. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing law, the federal Patient Protection and Affordable Care Act, requires applicable large employers, as defined, who offer full-time employees and their dependents the opportunity to enroll in minimum essential coverage and for whom one full-time employee has been certified as having enrolled in a qualified health plan for which a premium tax credit or cost-sharing reduction is allowed or paid, to pay a specified fee.*

*This bill would require a large employer, as defined, to pay the Employment Development Department an employer responsibility penalty for each covered employee, as defined, enrolled in Medi-Cal based on the average cost of coverage provided by large employers to their employees, including both the employer's and employee's share of the premiums, as specified. The bill would establish the Employer Responsibility for Medi-Cal Trust Fund, which would consist of the penalty amounts collected pursuant to these provisions and would require that the moneys in the fund be continuously appropriated to the State Department of Health Care Services to provide payment for the nonfederal share of Medi-Cal expenditures for covered employees, to increase the reimbursement of Medi-Cal providers, to provide reimbursement to county health systems, community clinics, and other entities that provide care without expectation of compensation to those Californians who do not have minimum essential coverage, as defined, and for all costs to implement the penalty provisions, as specified.*

*This bill would make it unlawful for a large employer to, among other things, designate an employee as an independent contractor or temporary employee, reduce an employee's hours or work, or terminate an employee if the purpose is to avoid the imposition of the penalty. A violation of those provisions would result in a penalty of 200% of the penalty amount the employer would have paid for the applicable period of time. The bill would prohibit a large employer from discharging or taking other action, as specified, against an employee who enrolls in a public health benefit program or the California Health Benefit Exchange and would make the willful refusal of the employer to rehire, promote, or otherwise restore the employee or former employee a misdemeanor. By establishing a new crime, this bill would impose a state-mandated local program.*

~~Existing law limits the information that the Franchise Tax Board may, upon request, disclose to specified agencies through information-sharing agreements or data interfaces to verify or determine eligibility of an individual for Medi-Cal benefits, the Healthy Families Program, the Access for Infants and Mothers Program, health benefits, tax credits, health insurance subsidies, or cost-sharing reductions through the California Health Benefit Exchange.~~

~~This bill would add a state employer identification number, if one has been issued, and an identifying number assigned to the employer under federal law, as specified, to the list of information that may be disclosed by the board.~~

Existing law requires employers to file specified information with the Employment Development Department, upon hiring an employee, that may be used by specified state departments, exchanges, and boards, and county departments and agencies for specified purposes, including verifying or determining the eligibility of an applicant for, or a recipient of, state health subsidy programs, as specified, if the verification or determination is directly connected with, and limited to, the administration of the referenced state health subsidy programs.

This bill would expand these provisions to allow the information to be used if the verification or determination is directly connected with, and limited to, the administration or funding of the referenced state health subsidy programs.

Existing law authorizes the Director of the Employment Development Department to permit the use of information in his or her possession for specified purposes and to require reimbursement for all direct costs incurred in providing that information. Existing law provides that this information includes information provided to enable federal, state, or local government departments or agencies, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services if the verification or determination is directly connected with, and limited to, the administration of public social services.

This bill would expand these provisions to allow the information to be used if the verification or determination is directly connected with, and limited to, the administration or funding of the public social services.

Existing law also authorizes the director to permit the use of information in his or her possession and to require reimbursement for all direct costs incurred in providing that information to enable specified state departments, exchanges, and boards, and county departments and agencies, to obtain information regarding employee wages, California employer names and account numbers, employer reports of wages and number of employees, and disability insurance and unemployment insurance claim information, for specified purposes.

This bill would authorize the director to provide information to enable these entities to obtain information regarding state employer identification numbers.

Existing law requires the State Department of Social Services and the State Department of Health Services to make use of the records of the Franchise Tax Board to match unearned income against reported income of applicants for, and recipients of, aid or public social services.

This bill would also require each department to use these records to match social security numbers of applicants for, and recipients of, aid or public services with their employer's state employer identification number, which shall then be forwarded to the appropriate county welfare department or other appropriate state departments for use, as specified.

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. (a) *The Legislature finds and declares all of the*  
2     *following:*

3     (1) *Working Californians should have affordable, comprehensive*  
4     *health insurance coverage.*

5     (2) *Most working Californians obtain their health insurance*  
6     *coverage through their employment, but some working Californians*  
7     *are covered by Medi-Cal and, commencing in 2014, some will be*  
8     *covered through Covered California, the California Health Benefit*  
9     *Exchange (Exchange).*

10    (3) *In 2012, more than 7,000,000 Californians lacked health*  
11    *insurance coverage at some time in the year. The federal Patient*  
12    *Protection and Affordable Care Act (PPACA) is expected to reduce*  
13    *the number of Californians without health insurance coverage by*  
14    *providing coverage through changes to the Medi-Cal program*  
15    *and the creation of the Exchange.*

16    (4) *PPACA sets a standard for what constitutes affordable,*  
17    *employment-based coverage and imposes penalties on any large*  
18    *employer whose full-time, nonseasonal employees receive coverage*  
19    *through the Exchange. Federal law imposes no penalty on large*  
20    *employers whose employees receive coverage through the*  
21    *taxpayer-funded Medi-Cal program.*

22    (5) *Employers who fail to provide affordable coverage to*  
23    *low-wage workers who are covered by Medi-Cal shift the cost of*  
24    *health care coverage from the employer to the taxpayer. Employers*

1 can avoid the employer responsibility penalty of PPACA by  
2 reducing wages, hours worked, or both, so that workers are no  
3 longer full-time, full-year employees within the meaning of PPACA.  
4 Workers who face low wages, work part-time, or both, are too  
5 often eligible for taxpayer-funded Medi-Cal instead of affordable,  
6 employer-based coverage.

7 (6) Persons who are covered by health insurance have better  
8 health outcomes than those who lack coverage. Persons without  
9 health insurance coverage are more likely to be in poor health,  
10 more likely to miss needed medications and treatment, and more  
11 likely to have chronic conditions that are not properly managed.

12 (7) Persons without health insurance coverage are at risk of  
13 financial ruin. Medical debt is the second most common cause of  
14 personal bankruptcy in the United States.

15 (8) California provides health insurance coverage to low-income  
16 workers through the Medi-Cal program. The taxpaying public  
17 pays the cost of coverage for those working people who are not  
18 provided health care coverage through employment. The number  
19 of working people whose coverage is provided through the  
20 Medi-Cal program is expected to increase because of PPACA.

21 (9) Taxpayers, through state and local governments, fund county  
22 hospitals and clinics, community clinics, and other safety net  
23 providers that provide care to those working people whose  
24 employers fail to provide affordable health care coverage to their  
25 employees as well as to other uninsured persons.

26 (10) Controlling health care costs can be more readily achieved  
27 if a greater share of working people and their families have health  
28 benefits so that cost shifting is minimized.

29 (11) The social and economic burden created by the lack of  
30 health care coverage for some workers and the coverage of other  
31 workers through the Medi-Cal program creates a burden on other  
32 employers, the state, affected workers, and the families of affected  
33 workers who suffer ill health and risk financial ruin.

34 (b) It is therefore the intent of the Legislature to do all of the  
35 following:

36 (1) Ensure that large employers pay a fair share penalty for  
37 health coverage received by their employees through the Medi-Cal  
38 program and to base that penalty on the cost of coverage provided  
39 by other large employers to their employees.

1     (2) Encourage the provision of affordable employer-based  
2     coverage to low-wage employees who would otherwise be eligible  
3     for the Medi-Cal program and to discourage employers from  
4     reducing hours, wages, or both in order to avoid the employer  
5     responsibility penalty of PPACA by extending an employer  
6     responsibility penalty to employers with employees covered by the  
7     Medi-Cal program.

8     (3) Ensure that employees who receive coverage through the  
9     Medi-Cal program are protected from any possible retaliation by  
10    their employer for seeking or obtaining that coverage.

11    SEC. 2. Section 230.9 is added to the Labor Code, to read:

12    230.9. (a) It shall be unlawful for a large employer, as defined  
13    in Section 14199.1 of the Welfare and Institutions Code, to  
14    designate an employee as an independent contractor or temporary  
15    employee, reduce an employee's hours of work, or terminate an  
16    employee if the purpose of the action is to avoid the employer's  
17    obligations under Article 7 (commencing with Section 14199) of  
18    Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions  
19    Code.

20    (b) A large employer shall not request or otherwise seek to  
21    obtain information concerning income, family income, or other  
22    eligibility requirements for public health benefit programs  
23    regarding an employee, other than that information about the  
24    employee's employment status otherwise known to the employer  
25    consistent with state and federal law and regulation.

26    (c) A large employer shall not require as a condition of  
27    employment that an employee not enroll in or disenroll from a  
28    public health benefit program, including, but not limited to, the  
29    Medi-Cal program, or the California Health Benefit Exchange.

30    (d) An employer may not discharge or in any manner  
31    discriminate or retaliate against an employee who enrolls in a  
32    public health benefit program, including, but not limited to, the  
33    Medi-Cal program, or the California Health Benefit Exchange.

34    (e) Any employee who is discharged, threatened with discharge,  
35    demoted, suspended, or in any other manner discriminated or  
36    retaliated against in the terms and conditions of employment by  
37    his or her employer because the employee has enrolled in a public  
38    health benefit program or the California Health Benefit Exchange  
39    shall be entitled to reinstatement and reimbursement for lost wages  
40    and work benefits caused by the acts of the employer.

1 (f) A large employer who willfully refuses to rehire, promote,  
2 or otherwise restore an employee or former employee described  
3 in this section who has been determined to be eligible for rehiring  
4 or promotion by a grievance procedure or hearing authorized by  
5 law is guilty of a misdemeanor.

6 (g) An employer who violates this section shall be charged a  
7 penalty of 200 percent of the amount of any fee that would have  
8 otherwise been paid by the employer for the period for covered  
9 employees under Article 7 (commencing with Section 14199) of  
10 Chapter 7 of Part 3 of Division 9.

11 SEC. 3. Section 976.7 is added to the Unemployment Insurance  
12 Code, to read:

13 976.7. (a) In addition to other contributions required by this  
14 division and consistent with the requirements of Article 7  
15 (commencing with Section 14199) of Chapter 7 of Part 3 of  
16 Division 9 of the Welfare and Institutions Code, a large employer,  
17 as defined in Section 14199.1 of the Welfare and Institution Code,  
18 shall pay to the department, for deposit into the Employer  
19 Responsibility for Medi-Cal Trust Fund, any penalties imposed  
20 pursuant to Article 7 (commencing with Section 14199) of Chapter  
21 7 of Part 3 of Division 9 of the Welfare and Institutions Code. The  
22 penalty shall be collected in the same manner and at the same time  
23 as any contributions required under Sections 976 and 1088.

24 (b) A large employer shall provide information to all newly  
25 hired and existing employees regarding the availability of Medi-Cal  
26 coverage for low-income employees, including the availability of  
27 Medi-Cal premium assistance as well as Medi-Cal coverage for  
28 persons whose income is less than the modified adjusted gross  
29 income threshold established for the Medi-Cal program pursuant  
30 to the federal Patient Protection and Affordable Care Act (Public  
31 Law 111-148), as amended by the federal Health Care and  
32 Education Reconciliation Act of 2010 (Public Law 111-152). The  
33 department, in consultation with the State Department of Health  
34 Care Services, shall develop a simple, uniform notice containing  
35 that information.

36 ~~SECTION 1. Section 19548.5 of the Revenue and Taxation~~  
37 ~~Code is amended to read:~~

38 ~~19548.5. (a) (1) The Franchise Tax Board may, upon request,~~  
39 ~~disclose to the California Health Benefit Exchange, the State~~  
40 ~~Department of Health Care Services, the Managed Risk Medical~~

1 Insurance Board, and county departments and agencies, returns or  
2 return information described in paragraph (2) in the records of the  
3 Franchise Tax Board, through information sharing agreements or  
4 data interfaces, to verify or determine eligibility of an individual  
5 for Medi-Cal benefits, the Healthy Families Program, the Access  
6 for Infants and Mothers Program, health benefits, tax credits, health  
7 insurance subsidies, or cost-sharing reductions through the  
8 Exchange.

9 (2) The returns and return information that may be disclosed  
10 pursuant to this section is limited to the following:

11 (A) Information necessary to validate or make the eligibility  
12 determination, including wages, withholdings, identifying  
13 information, and credits.

14 (B) The demographic information of any taxpayer.

15 (C) Tax refund information of any taxpayer.

16 (D) State employer identification number, if one has been issued,  
17 and identifying number assigned to the employer under Section  
18 6109 of the Internal Revenue Code.

19 (3) In addition to the penalties under this article for unauthorized  
20 use or disclosure of the information disclosed pursuant to this  
21 section by any deputy, agent, clerk, officer, or employee of any  
22 agency receiving information pursuant to this section, any  
23 information received from the Franchise Tax Board as a result of  
24 this section shall be subject to the information sharing and  
25 confidentiality requirements in paragraph (8) of subdivision (a) of  
26 Section 100504 of the Government Code.

27 (b) (1) This section shall not be construed to supersede the  
28 requirements and protections in the California Right to Financial  
29 Privacy Act under Chapter 20 (commencing with Section 7460)  
30 of Division 7 of Title 1 of the Government Code in obtaining  
31 information in possession of any financial institution.

32 (2) This section shall not be construed to supersede or replace  
33 or in any way modify any privacy and information security  
34 requirements and protections in federal and state law regarding  
35 protected health information or personally identifiable information,  
36 including, but not limited to, the federal Health Insurance  
37 Portability and Accountability Act (HIPAA), the Information  
38 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)  
39 of Title 1.8 of Part 4 of Division 3 of the Civil Code), Section  
40 14100.2 of the Welfare and Institutions Code, and any other state



1 ~~or federal laws that are intended to, or have the effect of, protecting~~  
2 ~~individual privacy and information security in any circumstance.~~

3 ~~(e) The Franchise Tax Board may require reimbursement for~~  
4 ~~costs incurred in providing information specified in this Section.~~

5 ~~SEC. 2.~~

6 *SEC. 4.* Section 1088.5 of the Unemployment Insurance Code  
7 is amended to read:

8 1088.5. (a) In addition to information reported in accordance  
9 with Section 1088, effective July 1, 1998, each employer shall file,  
10 with the department, the information provided for in subdivision  
11 (b) on new employees.

12 (b) Each employer shall report the hiring of any employee who  
13 works in this state and to whom the employer anticipates paying  
14 wages, and also shall report the hiring of any employee who  
15 previously worked for the employer but had been separated from  
16 that prior employment for at least 60 consecutive days.

17 (c) (1) This section shall not apply to any department, agency,  
18 or instrumentality of the United States.

19 (2) State agency employers shall not be required to report  
20 employees performing intelligence or counterintelligence functions,  
21 if the head of the agency has determined that reporting pursuant  
22 to this section would endanger the safety of the employee or  
23 compromise an ongoing investigation or intelligence mission.

24 (d) (1) Employers shall submit a report as described in  
25 paragraph (4) within 20 days of hiring any employee whom the  
26 employer is required to report pursuant to this section.

27 (2) Notwithstanding subdivision (a), employers transmitting  
28 reports magnetically or electronically shall submit the report by  
29 two monthly transmissions not less than 12 days and not more  
30 than 16 days apart.

31 (3) For purposes of this section, an employer that has employees  
32 in two or more states and that transmits reports magnetically or  
33 electronically may designate one state in which the employer has  
34 employees to which the employer will transmit the report described  
35 in paragraph (4). Any employer that transmits reports pursuant to  
36 this paragraph shall notify the Secretary of Health and Human  
37 Services in writing as to which state the employer designates for  
38 the purpose of sending reports.

39 (4) The report shall contain the following:

1 (A) The name, address, and social security number of the  
2 employees.

3 (B) The employer's name, address, state employer identification  
4 number (if one has been issued), and identifying number assigned  
5 to the employer under Section 6109 of the Internal Revenue Code  
6 of 1986.

7 (C) The first date the employee worked.

8 (5) Employers may report pursuant to this section by submitting  
9 a copy of the employee's W-4 form, a form provided by the  
10 department, or any other hiring document transmitted by first-class  
11 mail, magnetically, or electronically.

12 (e) For each failure to report the hiring of an employee, as  
13 required and within the time required by this section, unless the  
14 failure is due to good cause, the department may assess a penalty  
15 of twenty-four dollars (\$24), or four hundred ninety dollars (\$490)  
16 if the failure is the result of conspiracy between the employer and  
17 employee not to supply the required report or to supply a false or  
18 incomplete report.

19 (f) (1) On and after January 1, 2013, and before January 1,  
20 2019, information collected pursuant to this section may be used  
21 for the following purposes:

22 (A) Administration of this code, including, but not limited to,  
23 providing employer or employee information to participating  
24 members of the Joint Enforcement Strike Force on the  
25 Underground Economy pursuant to Section 329 for the purposes  
26 of auditing, investigating, and prosecuting violations of tax and  
27 cash-pay reporting laws.

28 (B) Locating individuals for purposes of establishing paternity  
29 and establishing, modifying, and enforcing child support  
30 obligations.

31 (C) Administration of employment security and workers'  
32 compensation programs.

33 (D) Providing employer or employee information to the  
34 Franchise Tax Board and the State Board of Equalization for the  
35 purpose of tax or fee enforcement.

36 (E) Verification of eligibility of applicants for, or recipients of,  
37 the public assistance programs listed in Section 1320b-7(b) of Title  
38 42 of the United States Code.

39 (F) Providing employer or employee information to the  
40 Contractors' State License Board and the State Compensation

1 Insurance Fund for the purpose of workers' compensation payroll  
2 reporting.

3 (G) Providing employer or employee information to the State  
4 Department of Health Care Services, the California Health Benefit  
5 Exchange, the Managed Risk Medical Insurance Board, and county  
6 departments and agencies for the purpose of:

7 (i) Verifying or determining the eligibility of an applicant for,  
8 or a recipient of, state health subsidy programs, limited to the  
9 Medi-Cal program, provided pursuant to Chapter 7 (commencing  
10 with Section 14000) of Part 3 of Division 9 of the Welfare and  
11 Institutions Code, the Healthy Families Program, provided pursuant  
12 to Part 6.2 (commencing with Section 12693) of Division 2 of the  
13 Insurance Code, and the Access for Infants and Mothers Program,  
14 provided pursuant to Part 6.3 (commencing with Section 12695)  
15 of Division 2 of the Insurance Code, where the verification or  
16 determination is directly connected with, and limited to, the  
17 administration and funding of the state health subsidy programs  
18 referenced in this clause.

19 (ii) Verifying or determining the eligibility of an applicant for,  
20 or a recipient of, federal subsidies offered through the California  
21 Health Benefit Exchange, provided pursuant to Title 22  
22 (commencing with Section 100500) of the Government Code,  
23 including federal tax credits and cost-sharing assistance pursuant  
24 to the federal Patient Protection and Affordable Care Act, (Public  
25 Law 111-148), as amended by the federal Health Care and  
26 Education Reconciliation Act of 2010 (Public Law 111-152), where  
27 the verification or determination is directly connected with, and  
28 limited to, the administration of the California Health Benefit  
29 Exchange.

30 (iii) Verifying or determining the eligibility of employees and  
31 employers for health coverage through the Small Business Health  
32 Options Program, provided pursuant to Section 100502 of the  
33 Government Code, where the verification or determination is  
34 directly connected with, and limited to, the administration of the  
35 Small Business Health Options Program.

36 (2) On and after January 1, 2019, information collected pursuant  
37 to this section may be used for the following purposes:

38 (A) Administration of this code.

1 (B) Locating individuals for purposes of establishing paternity  
2 and establishing, modifying, and enforcing child support  
3 obligations.

4 (C) Administration of employment security and workers'  
5 compensation programs.

6 (D) Providing employer or employee information to the  
7 Franchise Tax Board and to the State Board of Equalization for  
8 the purposes of tax or fee enforcement.

9 (E) Verification of eligibility of applicants for, or recipients of,  
10 the public assistance programs listed in Section 1320b-7(b) of Title  
11 42 of the United States Code.

12 (F) Providing employer or employee information to the State  
13 Department of Health Care Services, the California Health Benefit  
14 Exchange, the Managed Risk Medical Insurance Board, and county  
15 departments and agencies for the purpose of:

16 (i) Verifying or determining the eligibility of an applicant for,  
17 or a recipient of, state health subsidy programs, limited to the  
18 Medi-Cal program, provided pursuant to Chapter 7 (commencing  
19 with Section 14000) of Part 3 of Division 9 of the Welfare and  
20 Institutions Code, the Healthy Families Program, provided pursuant  
21 to Part 6.2 (commencing with Section 12693) of Division 2 of the  
22 Insurance Code, and the Access for Infants and Mothers Program,  
23 provided pursuant to Part 6.3 (commencing with Section 12695)  
24 of Division 2 of the Insurance Code, where the verification or  
25 determination is directly connected with, and limited to, the  
26 administration and funding of the state health subsidy programs  
27 referenced in this clause.

28 (ii) Verifying or determining the eligibility of an applicant for,  
29 or a recipient of, federal subsidies offered through the California  
30 Health Benefit Exchange, provided pursuant to Title 22  
31 (commencing with Section 100500) of the Government Code,  
32 including federal tax credits and cost-sharing assistance pursuant  
33 to the federal Patient Protection and Affordable Care Act, (Public  
34 Law 111-148), as amended by the federal Health Care and  
35 Education Reconciliation Act of 2010 (Public Law 111-152), where  
36 the verification or determination is directly connected with, and  
37 limited to, the administration of the California Health Benefit  
38 Exchange.

39 (iii) Verifying or determining the eligibility of employees and  
40 employers for health coverage through the Small Business Health

Options Program, provided pursuant to Section 100502 of the Government Code, where the verification or determination is directly connected with, and limited to, the administration of the Small Business Health Options Program.

(g) For purposes of this section, “employer” includes a labor union hiring hall.

(h) This section shall become operative on July 1, 1998.

~~SEC. 3.~~

*SEC. 5.* Section 1095 of the Unemployment Insurance Code is amended to read:

1095. The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes and may require reimbursement for all direct costs incurred in providing any and all information specified in this section, except information specified in subdivisions (a) to (e), inclusive:

(a) To enable the director or his or her representative to carry out his or her responsibilities under this code.

(b) To properly present a claim for benefits.

(c) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.

(d) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her obligations or safeguard his or her rights under this division or Division 3 (commencing with Section 9000).

(e) To enable an employer to receive a reduction in contribution rate.

(f) To enable federal, state, or local government departments or agencies, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services provided pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, or Part A of Title IV of the Social Security Act, where the verification or determination is directly connected with, and limited to, the administration and funding of public social services.

(g) To enable county administrators of general relief or assistance, or their representatives, to determine entitlement to locally provided general relief or assistance, where the determination is directly connected with, and limited to, the administration of general relief or assistance.

1 (h) To enable state or local governmental departments or  
2 agencies to seek criminal, civil, or administrative remedies in  
3 connection with the unlawful application for, or receipt of, relief  
4 provided under Division 9 (commencing with Section 10000) of  
5 the Welfare and Institutions Code or to enable the collection of  
6 expenditures for medical assistance services pursuant to Part 5  
7 (commencing with Section 17000) of Division 9 of the Welfare  
8 and Institutions Code.

9 (i) To provide any law enforcement agency with the name,  
10 address, telephone number, birth date, social security number,  
11 physical description, and names and addresses of present and past  
12 employers, of any victim, suspect, missing person, potential  
13 witness, or person for whom a felony arrest warrant has been  
14 issued, when a request for this information is made by any  
15 investigator or peace officer as defined by Sections 830.1 and  
16 830.2 of the Penal Code, or by any federal law enforcement officer  
17 to whom the Attorney General has delegated authority to enforce  
18 federal search warrants, as defined under Sections 60.2 and 60.3  
19 of Title 28 of the Code of Federal Regulations, as amended, and  
20 when the requesting officer has been designated by the head of  
21 the law enforcement agency and requests this information in the  
22 course of and as a part of an investigation into the commission of  
23 a crime when there is a reasonable suspicion that the crime is a  
24 felony and that the information would lead to relevant evidence.  
25 The information provided pursuant to this subdivision shall be  
26 provided to the extent permitted by federal law and regulations,  
27 and to the extent the information is available and accessible within  
28 the constraints and configurations of existing department records.  
29 Any person who receives any information under this subdivision  
30 shall make a written report of the information to the law  
31 enforcement agency that employs him or her, for filing under the  
32 normal procedures of that agency.

33 (1) This subdivision shall not be construed to authorize the  
34 release to any law enforcement agency of a general list identifying  
35 individuals applying for or receiving benefits.

36 (2) The department shall maintain records pursuant to this  
37 subdivision only for periods required under regulations or statutes  
38 enacted for the administration of its programs.

1 (3) This subdivision shall not be construed as limiting the  
2 information provided to law enforcement agencies to that pertaining  
3 only to applicants for, or recipients of, benefits.

4 (4) The department shall notify all applicants for benefits that  
5 release of confidential information from their records will not be  
6 protected should there be a felony arrest warrant issued against  
7 the applicant or in the event of an investigation by a law  
8 enforcement agency into the commission of a felony.

9 (j) To provide public employee retirement systems in California  
10 with information relating to the earnings of any person who has  
11 applied for or is receiving a disability income, disability allowance,  
12 or disability retirement allowance, from a public employee  
13 retirement system. The earnings information shall be released only  
14 upon written request from the governing board specifying that the  
15 person has applied for or is receiving a disability allowance or  
16 disability retirement allowance from its retirement system. The  
17 request may be made by the chief executive officer of the system  
18 or by an employee of the system so authorized and identified by  
19 name and title by the chief executive officer in writing.

20 (k) To enable the Division of Labor Standards Enforcement in  
21 the Department of Industrial Relations to seek criminal, civil, or  
22 administrative remedies in connection with the failure to pay, or  
23 the unlawful payment of, wages pursuant to Chapter 1  
24 (commencing with Section 200) of Part 1 of Division 2 of, and  
25 Chapter 1 (commencing with Section 1720) of Part 7 of Division  
26 2 of, the Labor Code.

27 (l) To enable federal, state, or local governmental departments  
28 or agencies to administer child support enforcement programs  
29 under Title IV of the federal Social Security Act (42 U.S.C. Sec.  
30 651 et seq.).

31 (m) To provide federal, state, or local governmental departments  
32 or agencies with wage and claim information in its possession that  
33 will assist those departments and agencies in the administration  
34 of the Victims of Crime Program or in the location of victims of  
35 crime who, by state mandate or court order, are entitled to  
36 restitution that has been or can be recovered.

37 (n) To provide federal, state, or local governmental departments  
38 or agencies with information concerning any individuals who are  
39 or have been:

1 (1) Directed by state mandate or court order to pay restitution,  
2 fines, penalties, assessments, or fees as a result of a violation of  
3 law.

4 (2) Delinquent or in default on guaranteed student loans or who  
5 owe repayment of funds received through other financial assistance  
6 programs administered by those agencies. The information released  
7 by the director for the purposes of this paragraph shall not include  
8 unemployment insurance benefit information.

9 (o) To provide an authorized governmental agency with any or  
10 all relevant information that relates to any specific workers'  
11 compensation insurance fraud investigation. The information shall  
12 be provided to the extent permitted by federal law and regulations.  
13 For the purposes of this subdivision, "authorized governmental  
14 agency" means the district attorney of any county, the office of  
15 the Attorney General, the Contractors' State License Board, the  
16 Department of Industrial Relations, and the Department of  
17 Insurance. An authorized governmental agency may disclose this  
18 information to the State Bar, the Medical Board of California, or  
19 any other licensing board or department whose licensee is the  
20 subject of a workers' compensation insurance fraud investigation.  
21 This subdivision shall not prevent any authorized governmental  
22 agency from reporting to any board or department the suspected  
23 misconduct of any licensee of that body.

24 (p) To enable the Director of the Bureau for Private  
25 Postsecondary Education, or his or her representatives, to access  
26 unemployment insurance quarterly wage data on a case-by-case  
27 basis to verify information on school administrators, school staff,  
28 and students provided by those schools who are being investigated  
29 for possible violations of Chapter 8 (commencing with Section  
30 94800) of Part 59 of Division 10 of Title 3 of the Education Code.

31 (q) To provide employment tax information to the tax officials  
32 of Mexico, if a reciprocal agreement exists. For purposes of this  
33 subdivision, "reciprocal agreement" means a formal agreement to  
34 exchange information between national taxing officials of Mexico  
35 and taxing authorities of the State Board of Equalization, the  
36 Franchise Tax Board, and the Employment Development  
37 Department. Furthermore, the reciprocal agreement shall be limited  
38 to the exchange of information that is essential for tax  
39 administration purposes only. Taxing authorities of the State of  
40 California shall be granted tax information only on California



1 residents. Taxing authorities of Mexico shall be granted tax  
2 information only on Mexican nationals.

3 (r) To enable city and county planning agencies to develop  
4 economic forecasts for planning purposes. The information shall  
5 be limited to businesses within the jurisdiction of the city or county  
6 whose planning agency is requesting the information, and shall  
7 not include information regarding individual employees.

8 (s) To provide the State Department of Developmental Services  
9 with wage and employer information that will assist in the  
10 collection of moneys owed by the recipient, parent, or any other  
11 legally liable individual for services and supports provided pursuant  
12 to Chapter 9 (commencing with Section 4775) of Division 4.5 of,  
13 and Chapter 2 (commencing with Section 7200) and Chapter 3  
14 (commencing with Section 7500) of Division 7 of, the Welfare  
15 and Institutions Code.

16 (t) To provide the State Board of Equalization with employment  
17 tax information that will assist in the administration of tax  
18 programs. The information shall be limited to the exchange of  
19 employment tax information essential for tax administration  
20 purposes to the extent permitted by federal law and regulations.

21 (u) Nothing in this section shall be construed to authorize or  
22 permit the use of information obtained in the administration of this  
23 code by any private collection agency.

24 (v) The disclosure of the name and address of an individual or  
25 business entity that was issued an assessment that included  
26 penalties under Section 1128 or 1128.1 shall not be in violation  
27 of Section 1094 if the assessment is final. The disclosure may also  
28 include any of the following:

29 (1) The total amount of the assessment.

30 (2) The amount of the penalty imposed under Section 1128 or  
31 1128.1 that is included in the assessment.

32 (3) The facts that resulted in the charging of the penalty under  
33 Section 1128 or 1128.1.

34 (w) To enable the Contractors' State License Board to verify  
35 the employment history of an individual applying for licensure  
36 pursuant to Section 7068 of the Business and Professions Code.

37 (x) To provide any peace officer with the Division of  
38 Investigation in the Department of Consumer Affairs information  
39 pursuant to subdivision (i) when the requesting peace officer has  
40 been designated by the Chief of the Division of Investigation and

1 requests this information in the course of and as part of an  
2 investigation into the commission of a crime or other unlawful act  
3 when there is reasonable suspicion to believe that the crime or act  
4 may be connected to the information requested and would lead to  
5 relevant information regarding the crime or unlawful act.

6 (y) To enable the Labor Commissioner of the Division of Labor  
7 Standards Enforcement in the Department of Industrial Relations  
8 to identify, pursuant to Section 90.3 of the Labor Code, unlawfully  
9 uninsured employers. The information shall be provided to the  
10 extent permitted by federal law and regulations.

11 (z) To enable the Chancellor of the California Community  
12 Colleges, in accordance with the requirements of Section 84754.5  
13 of the Education Code, to obtain quarterly wage data, commencing  
14 January 1, 1993, on students who have attended one or more  
15 community colleges, to assess the impact of education on the  
16 employment and earnings of students, to conduct the annual  
17 evaluation of district-level and individual college performance in  
18 achieving priority educational outcomes, and to submit the required  
19 reports to the Legislature and the Governor. The information shall  
20 be provided to the extent permitted by federal statutes and  
21 regulations.

22 (aa) To enable the Public Employees' Retirement System to  
23 seek criminal, civil, or administrative remedies in connection with  
24 the unlawful application for, or receipt of, benefits provided under  
25 Part 3 (commencing with Section 20000) of Division 5 of Title 2  
26 of the Government Code.

27 (ab) To enable the State Department of Education, the University  
28 of California, the California State University, and the Chancellor  
29 of the California Community Colleges, pursuant to the  
30 requirements prescribed by the federal American Recovery and  
31 Reinvestment Act of 2009 (Public Law 111-5), to obtain quarterly  
32 wage data, commencing July 1, 2010, on students who have  
33 attended their respective systems to assess the impact of education  
34 on the employment and earnings of those students, to conduct the  
35 annual analysis of district-level and individual district or  
36 postsecondary education system performance in achieving priority  
37 educational outcomes, and to submit the required reports to the  
38 Legislature and the Governor. The information shall be provided  
39 to the extent permitted by federal statutes and regulations.

1 (ac) To provide the Agricultural Labor Relations Board with  
2 employee, wage, and employer information, for use in the  
3 investigation or enforcement of the  
4 Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations  
5 Act of 1975 (Part 3.5 (commencing with Section 1140) of Division  
6 2 of the Labor Code). The information shall be provided to the  
7 extent permitted by federal statutes and regulations.

8 (ad) (1) To enable the State Department of Health Care  
9 Services, the California Health Benefit Exchange, the Managed  
10 Risk Medical Insurance Board, and county departments and  
11 agencies to obtain information regarding employee wages,  
12 California employer names and state employer identification  
13 numbers, employer reports of wages and number of employees,  
14 and disability insurance and unemployment insurance claim  
15 information, for the purpose of:

16 (A) Verifying or determining the eligibility of an applicant for,  
17 or a recipient of, state health subsidy programs, limited to the  
18 Medi-Cal Program, provided pursuant to Chapter 7 (commencing  
19 with Section 14000) of Part 3 of Division 9 of the Welfare and  
20 Institutions Code, the Healthy Families Program, provided pursuant  
21 to Part 6.2 (commencing with Section 12693) of Division 2 of the  
22 Insurance Code, and the Access for Infants and Mothers Program,  
23 provided pursuant to Part 6.3 (commencing with Section 12695)  
24 of Division 2 of the Insurance Code, where the verification or  
25 determination is directly connected with, and limited to, the  
26 administration and funding of the state health subsidy programs  
27 referenced in this subparagraph.

28 (B) Verifying or determining the eligibility of an applicant for,  
29 or a recipient of, federal subsidies offered through the California  
30 Health Benefit Exchange, provided pursuant to Title 22  
31 (commencing with Section 100500) of the Government Code,  
32 including federal tax credits and cost-sharing assistance pursuant  
33 to the federal Patient Protection and Affordable Care Act (Public  
34 Law 111-148), as amended by the federal Health Care and  
35 Education Reconciliation Act of 2010 (Public Law 111-152), where  
36 the verification or determination is directly connected with, and  
37 limited to, the administration of the California Health Benefit  
38 Exchange.

39 (C) Verifying or determining the eligibility of employees and  
40 employers for health coverage through the Small Business Health

Options Program, provided pursuant to Section 100502 of the Government Code, where the verification or determination is directly connected with, and limited to, the administration of the Small Business Health Options Program.

(2) The information provided under this subdivision shall be subject to the requirements of, and provided to the extent permitted by, federal law and regulations, including Part 603 of Title 20 of the Code of Federal Regulations.

~~SEC. 4.~~

SEC. 6. Section 11025 of the Welfare and Institutions Code is amended to read:

11025. (a) The State Department of Social Services and the State Department of Health Services shall utilize the records of the Franchise Tax Board to match unearned income against reported income of applicants for and recipients of aid or public social services and to match social security numbers of applicants for and recipients of aid or public services with their employer's state employer identification number under this division. The matching information shall then be forwarded to the appropriate county welfare department or other appropriate state departments for use in determining the eligibility of, and proper grant amount for, applicants for, and recipients of, aid or public social services under this division. Any and all documents and records that result from the matching of records with the Franchise Tax Board shall be subject to the confidentiality requirements of Section 10850.

(b) This section shall not be construed to supersede the requirements and protections in the California Right to Financial Privacy Act under Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code in obtaining information in possession of any financial institution.

(c) This section shall be implemented only to the extent it is funded in the annual Budget Act.

SEC. 7. *Article 7 (commencing with Section 14199) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:*

Article 7. *Employer Responsibility for Cost of Employees  
Covered under the Medi-Cal program*

14199. *This article shall be known, and may be cited, as the  
Employer Responsibility for Medi-Cal Cost of Employees Act of  
2013.*

14199.1. *For purposes of this article, the following definitions  
shall apply:*

(a) (1) *“Covered employee” means an individual who meets  
all of the following:*

(A) *He or she is an employee of a large employer.*

(B) *He or she is enrolled in Medi-Cal on the basis of his or her  
modified adjusted gross income in accordance with PPACA.*

(C) *He or she is not a person who is enrolled in Medi-Cal by  
reason of disability or being over 65 years of age.*

(D) *He or she works more than eight hours per week for the  
employer.*

(2) *A “covered employee” includes a leased employee or other  
individual under the direction and control of the employer.*

(b) *“Department” means the State Department of Health Care  
Services.*

(c) *“Employer” means an employing unit as defined in Section  
135 of the Unemployment Insurance Code. For purposes of this  
article, an employer includes all of the members of a controlled  
group of corporations. A “controlled group of corporations”  
means controlled group of corporations as defined in Section  
1563(a) of the Internal Revenue Code, except that “more than 50  
percent” shall be substituted for “at least 80 percent” each place  
it appears in Section 1563(a)(1) of the Internal Revenue Code,  
and the determination shall be made without regard to Sections  
1563(a)(4) and 1563(e)(3)(C) of the Internal Revenue Code.*

(d) *“Fund” means a the Employer Responsibility for Medi-Cal  
Trust Fund, established pursuant to Section 14199.12.*

(e) (1) *“Large employer” means an employer employing for  
wages or salary 500 or more persons to work in this state.*

(2) *For purposes of this article only, “large employer” shall  
not include a state, city, county, city and county, district or any  
other governmental employer.*

(3) *For purposes of this article only, “large employer” shall  
include employers who are nonprofit entities for purposes of state*

1 or federal corporate income taxes, for purposes of state or local  
2 property taxes, or for any other tax purpose.

3 (f) “PPACA” means the federal Patient Protection and  
4 Affordable Care Act (Public Law 111-148), as amended by the  
5 federal Health Care and Education Reconciliation Act of 2010  
6 (Public Law 111-152).

7 (g) “Wages” means wages as defined in subdivision (a) of  
8 Section 200 of the Labor Code paid directly to an individual by  
9 his or her employer.

10 14199.8. (a) Except as otherwise provided in this article, every  
11 large employer shall pay an employer responsibility penalty, as  
12 determined pursuant to Section 14199.9.

13 (b) An employer responsibility penalty shall not be incurred by  
14 a state, county, city, city and county, district, or any other  
15 governmental entity.

16 (c) A large employer shall pay an employer responsibility  
17 penalty for each covered employee as defined in this article.

18 14199.9. (a) (1) The amount of the employer responsibility  
19 penalty shall be based on the average cost of health care coverage  
20 provided by large employers to their employees, including both  
21 the employer and employee share of premium.

22 (2) The amount of the employer responsibility penalty shall be  
23 set at 110 percent of the average cost of coverage as determined  
24 pursuant to subdivision (b) to cover the necessary costs of  
25 administration incurred by the State Department of Health Care  
26 Services, the Employment Development Department, the Franchise  
27 Tax Board, or any other state government agency.

28 (b) (1) The average cost of health care coverage provided by  
29 large employers shall be determined using the information provided  
30 by health plans pursuant to Section 1385.04 of the Health and  
31 Safety Code and by health insurers pursuant to Section 10181.4  
32 of the Insurance Code.

33 (2) If information about the average cost of large employer  
34 health care coverage is not provided by the department that  
35 regulates the majority of large employer plans or policies, the  
36 average cost shall be determined using a statistically valid,  
37 scientifically reliable survey of large employers, which may be  
38 conducted by a nonprofit foundation established as a result of the  
39 conversion of a health care service plan from a nonprofit to  
40 for-profit tax status.

1     (c) *The employer responsibility penalty shall be determined by*  
2 *multiplying the amount described in paragraph (2) of subdivision*  
3 *(a) by a fraction, the numerator of which is the employer's total*  
4 *annual wage payments to all covered employees and the*  
5 *denominator of which is the employer's total annual payroll.*

6     (d) *The department shall obtain the information necessary to*  
7 *determine this penalty from the Employment Development*  
8 *Department.*

9     14199.10. *The department shall provide notice to the*  
10 *Employment Development Department of the amount of the*  
11 *employer responsibility penalty in a time and manner that permits*  
12 *the Employment Development Department to provide notice to all*  
13 *large employers of the estimated penalty for the budget year*  
14 *pursuant to Section 976.7 of the Unemployment Insurance Code.*

15     14199.11. *All moneys collected pursuant to this article shall*  
16 *be deposited in the Employer Responsibility for Medi-Cal Trust*  
17 *Fund created pursuant to Section 14199.12.*

18     14199.12. (a) *The Employer Responsibility for Medi-Cal Trust*  
19 *Fund is hereby created in the State Treasury.*

20     (b) *The fund shall consist of moneys collected pursuant to this*  
21 *article.*

22     (c) *Notwithstanding Section 13340 of the Government Code,*  
23 *moneys in the fund are continuously appropriated to the State*  
24 *Department of Health Care Services for the following purposes:*

25         (1) *To provide payment for the nonfederal share of Medi-Cal*  
26 *costs for covered employees.*

27         (2) *To increase reimbursement of providers of care for covered*  
28 *employees.*

29         (3) *To provide reimbursement to county health systems,*  
30 *community clinics, and other entities that provide care without*  
31 *expectation of compensation to those Californians who do not*  
32 *have minimum essential coverage as defined in Section 5000A of*  
33 *Title 26 of the United States Code.*

34     (d) *All costs to implement this article shall be paid from moneys*  
35 *deposited in the Employer Responsibility for Medi-Cal Trust Fund,*  
36 *including any necessary costs incurred by the department, the*  
37 *Employment Development Department, the Franchise Tax Board,*  
38 *or any other state government agency.*

39     14199.13. (a) *The department shall match social security*  
40 *numbers of low-income individuals covered by the Medi-Cal*

1 *program with information provided by the Employment*  
2 *Development Department and, if necessary, the Franchise Tax*  
3 *Board to determine whether the individuals are covered employees*  
4 *within the meaning of this article.*

5 *(b) The department shall provide information about covered*  
6 *employees to the Franchise Tax Board in order to permit the*  
7 *collection of the employer responsibility penalty imposed pursuant*  
8 *to this article.*

9 *(c) Any and all documents and records that result from the*  
10 *matching of records with the Franchise Tax Board and*  
11 *Employment Development Department shall be subject to the*  
12 *confidentiality requirements of Section 14100.2.*

13 *(d) This section shall not be construed to supersede the*  
14 *requirements and protections in the California Right to Financial*  
15 *Privacy Act under Chapter 20 (commencing with Section 7460)*  
16 *of Division 7 of Title 1 of the Government Code in obtaining*  
17 *information in possession of any financial institution.*

18 *SEC. 8. No reimbursement is required by this act pursuant to*  
19 *Section 6 of Article XIII B of the California Constitution because*  
20 *the only costs that may be incurred by a local agency or school*  
21 *district will be incurred because this act creates a new crime or*  
22 *infraction, eliminates a crime or infraction, or changes the penalty*  
23 *for a crime or infraction, within the meaning of Section 17556 of*  
24 *the Government Code, or changes the definition of a crime within*  
25 *the meaning of Section 6 of Article XIII B of the California*  
26 *Constitution.*